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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,755	11/28/2001	Akira Fukunaga	2001_1767A	8643

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WASHINGTON, DC 20006-1021

EXAMINER

THERKORN, ERNEST G

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 03/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,755

Applicant(s)

FUKUNAGA

Examiner

THERKOR

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1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 12, 2003.
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above, claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either Eckles (U.S. Patent No. 4,326,940) or Heberling (PC FAB, August 1989, pages 72-84. The claim is considered to read on each of Eckles (U.S. Patent No. 4,326,940) and Heberling (PC FAB, August 1989, pages 72-84. However, if a difference exists between the claim and each of Eckles (U.S. Patent No. 4,326,940) and Heberling (PC FAB, August 1989, pages 72-84, it would reside in optimizing the steps of each of Eckles (U.S. Patent No. 4,326,940) and Heberling (PC FAB, August 1989, pages 72-84. It would have been obvious to optimize the steps of each of Eckles (U.S. Patent No. 4,326,940) and Heberling (PC FAB, August 1989, pages 72-84 to enhance separation.

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Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over each of Eckles (U.S. Patent No. 4,326,940) and Heberling (PC FAB, August 1989, pages 72-84 in view of either Heckenburg (U.S. Patent No. 5,279,972) or Gjerde (U.S. Patent No. 5,772,889). At best, the claim differs from each of Eckles (U.S. Patent No. 4,326,940) and Heberling (PC FAB, August 1989, pages 72-84 in reciting removing ions. Heckenburg (U.S. Patent No. 5,279,972) (column 1, lines 12-14 and column 2, lines 35-45) discloses that it is desirable to remove unwanted ions prior to chromatographic separation. Gjerde (U.S. Patent No. 5,772,889) (column 3, lines 1-7) discloses that ions cause peak distortion and removing them removes the problem. It would have been obvious to remove ions in each of Eckles (U.S. Patent No. 4,326,940) and Heberling (PC FAB, August 1989, pages 72-84 either because Heckenburg (U.S. Patent No. 5,279,972) (column 1, lines 12-14 and column 2, lines 35-45) discloses that it is desirable to remove unwanted ions prior to chromatographic separation or because Gjerde (U.S. Patent No. 5,772,889) (column 3, lines 1-7) discloses that ions cause peak distortion and removing them removes the problem.

The restriction requirement has been reconsidered, deemed proper, and made final for the reasons of record.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (703) 308-0362.

Ernest G. Therkorn
Primary Examiner
Art Unit 1723

EGT/12
February 24, 2003